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STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA 01/02-4004
	)	
Attisha Enterprise	)	CONSENT ORDER
dba El Capitan Oil Co.	)	
11427 Woodside Avenue	)	
Santee, California 92071	)	
EPA ID No. CAL000233821	)	Health and Safety Code
	)	Section 25187
Respondent.	)	

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The State Department of Toxic Substances Control (Department) and El Capitan Oil Co. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent stores hazardous waste at 11427 Woodside Avenue, Santee, California 92071(Site).
2. The Department inspected the Site on August 3, 2001.
3. The Department alleges the following violation:
  - 3.1. The Respondent violated Health and Safety Code section 25201 subsection (a) in that on or about August 3, 2001, the Respondent accepted waste oil collected from customers (off-site) in quantities over 20 gallons per shipment and stored it in a 550 gallon above-ground tank without a permit or authorization from the Department.
4. A dispute exists regarding the alleged violation.
5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
6. Jurisdiction exists pursuant to Health and Safety Code section 25187.
7. Respondent waives any right to a hearing in this matter.
8. This Consent Order shall constitute full settlement of the violation alleged above, but does not limit the Department from taking appropriate enforcement

1 action concerning other violations.

2 9. Respondent admits the violation described above.

3 SCHEDULE FOR COMPLIANCE

4 10. Respondent shall comply with the following:

5 10.I. Respondent shall only receive waste oil from off-site  
6 and store it in Respondent's facility in compliance with the hazardous waste laws and  
7 regulations of the State of California including Health and Safety Code section  
8 25250.11, subsection (a). In order to better understand California hazardous  
9 waste laws and regulations, Respondent hereby agrees to send Mr. Sam Reed,  
10 General Manager, to the California Compliance School Modules I through IV.  
11 Attendance must be completed and Respondent must submit a Certificate of  
12 Satisfactory Completion to the Department within 185 days of the effective date of this  
13 Consent Order. If Respondent fails to submit the Certificate of Satisfactory Completion  
14 as required, the penalty of \$4,720.00 referenced in paragraph 11 of this Consent Order  
15 is due and payable within 30 days after the expiration of the 185-day period. The 185-  
16 day period may be extended by the Department upon written request demonstrating  
17 good cause from the Respondent.

18 10.2. Submittals: All submittals from Respondent pursuant to this  
19 Consent Order shall be sent simultaneously to:

20 Nennet V. Alvarez, Branch Chief  
21 Statewide Compliance Division  
22 Cypress Office  
23 Department of Toxic Substances Control  
24 5796 Corporate Avenue  
25 Cypress, CA 90630

26 Pamela LePen  
27 Senior Hazardous Substances Scientist  
28 Statewide Compliance Division  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, CA 90630

27 10.3. Communications: All approvals and decisions of the Department  
28 made regarding such submittals and notifications shall be communicated to

1 Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or  
2 his/her designee. No informal advice, guidance, suggestions, or comments by the  
3 Department regarding reports, plans, specifications, schedules, or any other writings by  
4 Respondent shall be construed to relieve Respondent of its obligation to obtain such  
5 formal approvals as may be required.

6 10.4. Department Review and Approval: If the Department determines  
7 that any report, plan, schedule, or other document submitted for approval pursuant to  
8 this Consent Order fails to comply with the Order or fails to protect public health or  
9 safety or the environment, the Department may return the document to Respondent  
10 with recommended changes and a date by which Respondent must submit to the  
11 Department a revised document incorporating the recommended changes.

12 10.5. Compliance with Applicable Laws: Respondent shall carry out this  
13 Order in compliance with all local, State, and federal requirements, including but not  
14 limited to requirements to obtain permits and to assure worker safety.

15 10.6. Endangerment during Implementation: In the event that the  
16 Department determines that any circumstances or activity (whether or not pursued in  
17 compliance with this Consent Order) are creating an imminent or substantial  
18 endangerment to the health or welfare of people on the site or in the surrounding area  
19 or to the environment, the Department may order Respondent to stop further  
20 implementation for such period of time as needed to abate the endangerment. Any  
21 deadline in this Consent Order directly affected by a Stop Work Order under this section  
22 shall be extended for the term of such Stop Work Order.

23 10.7. Liability: Nothing in this Consent Order shall constitute or be  
24 construed as a satisfaction or release from liability for any conditions or claims arising  
25 as a result of past, current, or future operations of Respondent, except as provided in  
26 this Consent Order. Notwithstanding compliance with the terms of this Consent Order,  
27 Respondent may be required to take further actions as are necessary to protect public  
28 health or welfare or the environment.

1                   10.8. Site Access: Access to the Site shall be provided at all reasonable  
2 times to employees, contractors, and consultants of the Department, and any agency  
3 having jurisdiction. Nothing in this Consent Order is intended to limit in any way the  
4 right of entry or inspection that any agency may otherwise have by operation of any law.  
5 The Department and its authorized representatives may enter and move freely about all  
6 property at the Site at all reasonable times for purposes including but not limited to:  
7 inspecting records, operating logs, and contracts relating to the Site; reviewing the  
8 progress of Respondent in carrying out the terms of this Consent Order; and conducting  
9 such tests as the Department may deem necessary. Respondent shall permit such  
10 persons to inspect and copy all records, documents, and other writings, including all  
11 sampling and monitoring data, in any way pertaining to work undertaken pursuant to  
12 this Consent Order.

13                   10.9. Sampling, Data, and Document Availability: Respondent shall  
14 permit the Department and its authorized representatives to inspect and copy all  
15 sampling, testing, monitoring, and other data generated by Respondent or on  
16 Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent  
17 Order. Respondent shall allow the Department and its authorized representatives to  
18 take duplicates of any samples collected by Respondent pursuant to this Consent  
19 Order. Respondent shall maintain a central depository of the data, reports, and other  
20 documents prepared pursuant to this Consent Order. All such data, reports, and other  
21 documents shall be preserved by Respondent for a minimum of six years after the  
22 conclusion of all activities under this Consent Order. If the Department requests that  
23 some or all of these documents be preserved for a longer period of time, Respondent  
24 shall either comply with that request, deliver the documents to the Department, or  
25 permit the Department to copy the documents prior to destruction. Respondent shall  
26 notify the Department in writing at least six months prior to destroying any documents  
27 prepared pursuant to this Consent Order.

28                   10.10. Government Liabilities: The State of California shall not be liable

1 for injuries or damages to persons or property resulting from acts or omissions by  
2 Respondent or related parties specified in paragraph 12.3, in carrying out activities  
3 pursuant to this Consent Order, nor shall the State of California be held as a party to  
4 any contract entered into by Respondent or its agents in carrying out activities pursuant  
5 to this Consent Order.

6 10.11. Incorporation of Plans and Reports: All plans, schedules, and  
7 reports that require Department approval and are submitted by Respondent pursuant to  
8 this Consent Order are incorporated in this Consent Order upon approval by the  
9 Department.

10 10.12. Extension Requests: If Respondent is unable to perform any  
11 activity or submit any document within the time required under this Consent Order, the  
12 Respondent may, prior to expiration of the time, request an extension of time in writing.  
13 The extension request shall include a justification for the delay.

14 10.13. Extension Approvals: If the Department determines that good  
15 cause exists for an extension, it will grant the request and specify in writing a new  
16 compliance schedule.

17 10.14. Definition of Terms: The terms used in this Consent Order are as  
18 defined in California Code of Regulations, title 22, section 66260.10, except as  
19 otherwise provided.

## 20 PAYMENTS

21 11. If Respondent fails to submit the Certificate of Satisfactory  
22 Completion as required and specified in paragraph 10.1 of this Consent Order,  
23 a penalty of \$4,720.00 is due and payable within 30 days after the expiration of the 185-  
24 day period allowed for completion of the course and submittal of the certificate.  
25 Respondent's check shall be made payable to Department of Toxic Substances  
26 Control, and shall identify the Respondent and Docket Number, as shown in the  
27 heading of this Consent Order. Respondent shall deliver the penalty payment together  
28 with the attached Payment Voucher to:

1 Department of Toxic Substances Control  
2 Accounting Office  
3 1001 I Street, 21st floor  
4 P. O. Box 806  
5 Sacramento, California 95812-0806

6 A photocopy of the check shall be sent to:

7 Nennet V. Alvarez, Branch Chief  
8 Statewide Compliance Division  
9 Department of Toxic Substances Control  
10 5796 Corporate Avenue  
11 Cypress, CA 90630

12 Pamela LePen  
13 Senior Hazardous Substances Scientist  
14 Statewide Compliance Division  
15 Department of Toxic Substances Control  
16 5796 Corporate Avenue  
17 Cypress, CA 90630

18 Ramon Perez  
19 Office of Legal Counsel  
20 Department of Toxic Substances Control  
21 2878 Camino Del Rio South, Ste. 402  
22 San Diego, CA 92108

23 If Respondent fails to make payment as provided above, Respondent  
24 agrees to pay interest at the rate established pursuant to Health and Safety Code  
25 section 25360.1 and to pay all costs incurred by the Department in pursuing collection  
26 including attorney's fees.

#### 27 OTHER PROVISIONS

28 12.1. Additional Enforcement Actions: By agreeing to this Consent Order,  
the Department does not waive the right to take further enforcement actions, except to  
the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of  
this Consent Order may subject Respondent to civil penalties and/or punitive damages  
for any costs incurred by the Department or other government agencies as a result of  
such failure, as provided by Health and Safety Code section 25188 and other applicable  
provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding

1 upon Respondent and its officers, directors, agents, receivers, trustees, employees,  
2 contractors, consultants, successors, and assignees, including but not limited to  
3 individuals, partners, and subsidiary and parent corporations, and upon the Department  
4 and any successor agency that may have responsibility for and jurisdiction over the  
5 subject matter of this Consent Order.

6 12.4. Effective Date: The effective date of this Consent Order is the date  
7 it is signed by the Department.

8 12.5. Integration: This agreement constitutes the entire agreement  
9 between the parties and may not be amended, supplemented, or modified, except as  
10 provided in this agreement.

11 12.6. Compliance with Waste Discharge Requirements: Respondent shall  
12 comply with all applicable waste discharge requirements issued by the State Water  
13 Resources Control Board or a California regional water quality control board.

14  
15 Dated: 06/01/02

Original Signed by: Samad Attisha  
Samad Attisha,  
Owner  
Attisha Enterprise

16  
17  
18  
19 Dated: 06/07/02

Original Signed by: Nennet Alvarez  
Nennet V. Alvarez  
Branch Chief  
Statewide Compliance Division  
Cypress Office  
Department of Toxic Substances Control